

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

ANNIE ALEXANDER,

Plaintiff,

v.

RITE AID PHARMACY; CAROL  
BRUCE; and VIVIAN RODRIGUEZ,

Defendants.

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CIVIL ACTION NO.: CV510-006

**MAGISTRATE JUDGE'S ORDER**  
**and REPORT AND RECOMMENDATION**

Plaintiff seeks to proceed *in forma pauperis* in an action brought pursuant to 42 U.S.C. § 2000e, alleging employment discrimination. She also moves for the appointment of counsel to assist her in pursuing this action. Plaintiff alleges that Defendants have used discrimination, deception, and fraudulent practices against her depriving her of "equal opportunity to exercise enjoyment in the workplace." Plaintiff seeks damages in the amount of \$300,000.00.

If Plaintiff desires to proceed pursuant to 42 U.S.C. § 2000e, alleging employment discrimination, she must first file a complaint with the U. S. Equal Employment Opportunity Commission. The filing of a complaint with the EEOC and the receipt of a right-to-sue letter is not a jurisdictional prerequisite, but rather a condition precedent, which on proper occasion may be equitably modified. *Id.* at 1216; Zipes v. Trans World Airlines, Inc., 455

U.S. 385, 393, 102 S. Ct. 1127, 1132, 71 L. Ed. 2d 234 (1982); Forehand v. Florida State Hospital at Chattahoochee, 839 F.Supp. 807, 814 (N.D. Fla. 1993); Jackson v. Seaboard Coast Line Railroad Co., 678 F.2d 992 (11th Cir. 1982). In the case *sub judice*, Plaintiff has not filed such a complaint with the EEOC as required.

Plaintiff's application to proceed *in forma pauperis* is **DENIED**. Her Motion for Appointment of Counsel is also **denied**. Furthermore, it is my **RECOMMENDATION** that Plaintiff's Complaint be **DISMISSED** without prejudice.

So **ORDERED** and **REPORTED** and **RECOMMENDED**, this 20<sup>th</sup> day of January, 2010.

  
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JAMES E. GRAHAM  
UNITED STATES MAGISTRATE JUDGE